IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

W.P.NOS 22330 OF 2004
AND
WP.MP.NO..10663 of 2006

M.Subramaniam ....Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The Secretary to Government,
Labour and Employment Department,
Chennai 600 009.

2. The Director of Employment and Training,
Chepauk,Chennai 600 005.

3. The Joint Director of Training(Craftsman Training)
O/o the Director of Employment and Training,
Chepauk,Chennai 600 005. ..Respondents

Petition filed under Article 226 f the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus as stated within.

For petitioners: Mr.S.M.Subramanian
For Respondents : Mr.N.Senthil Kumar
Additional Government Pleader

O R D E R

Challenge is made to the order of the third respondent made in Proc.Se.Mu.Aa.No.61672/A Pa 2/2002 dated 20.10.2003 and to quash the same and consequently direct the respondents to reinstate the petitioner in service with full backwages with other consequential service benefits.

2. The Court heard the learned counsel on either side.

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3. From the submissions made by the learned counsel for he petitioner and materials available on record, it could be seen that the petitioner herein who was appointed as workshop Assistant in the Department of Employment and Training in the year 1972, due to his family problems and health conditions applied for medical leave from 2.2.1989 onwards and he was extending the leave period and that he was under the impression that leave applications were entertained and accepted. Thereafter when he sought for permission to rejoin duty, he was not permitted to join duty. After a prolonged period, he was directed to join duty from 19.7.2002 and even before joining the duty, a charge memo under Rule 17(b) Tamil Nadu Civil Services (Conduct and Appeal) Rules (hereinafter referred to as 'the Rules') has been issued to him on 5.12.2000 stating that he was not attending the duty for more than one year from 2.2.1989. Following the explanation tendered, domestic enquiry was conduted. Not satisfied with the explanation to the second show cause notice, the termination order was passed. Aggrieved over the same, the above writ petition has been brought forth.

4. The only contention put forth by the learned counsel for the petitioner is that it is not in controversy that the petitioner did not attend duty from 2.2.1989 onwards, but he applied for leave and he was under the bonafide impression that his applications were entertained and leave was granted, but those applications were rejected. No reason was adduced to frame charges under 17(b) of the Rules. It was stated that since he was absented from duty for a period of one year, the order of termination was passed. Under the circumstances, the order has got to be quashed.

5. Heard the learned counsel for the respondents on the above contentions.

6. In the instant case, it is an admitted position that the petitioner was appointed as Workshop Assistant in the Department of Employment and Training and he did not attend duty from 2.2.1989 for a period of one year. The only contention put forth by the petitioner's side is that he made leave application then and there and he was under the bonafide impression that they were entertained and leave has been granted and no materials is available to prove any one of the above factors. Taking into consideration the facts and circumstances of the case, it would be quite clear that even without getting permission, he was absented himself for duty for a period of one year. The conduct of the petitioner is not a minor one. Under such

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circumstances, the order of termination has got to be sustained. This Court is unable to interfere with the orders passedby the third respondent and hence the writ petition is dismissed.No costs. Consequently, WP.Mp.No..10663 of 2006 is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Vjy

To

1.. The Secretary to Government,
Labour and Employment Department,
Chennai 600 009.

2. The Director of Employment and Training,
Chepauk,Chennai 600 005.

3. The Joint Director of Training(Craftsman Training)
O/o the Director of Employment and Training,
Chepauk,Chennai 600 005.

+1cc to Govt. Pleader Sr 56528

BV (CO)
km/27.9.

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